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Draft Chesapeake Bay Total Maximum Daily Load

Comment On: EPA-R03-OW-2010-0736-0001
Clean Water Act Section 303(d): Notice for the Public Review of the Draft Total Maximum Daily Load (TMDL) for the Chesapeake Bay

Document: EPA-R03-OW-2010-0736-0382
Comment submitted by Tina Combs, Chamber of Commerce, Martinsburg and Berkeley County, WV

Submitter Information

Submitter's Representative: Tina Combs
Organization: Chamber of Commerce, Martinsburg and Berkeley County, WV

General Comment

I am writing in response to the draft Chesapeake Bay TMDL regulations to voice concerns regarding the potential negative impact the regulations will have on Berkeley County and the other Eastern Panhandle counties that lie within the affected watershed.

Pollutant sources for which reductions must be harvested include agriculture, forest, developed land (urban runoff), septic systems (all, collectively, "non-point sources") and wastewater treatment plants ("point sources"). Of these sources, West Virginia treatment plants are estimated by EPA to contribute 1% of the nitrogen and 3% of the phosphorus into the Bay. Agriculture is the single largest source of pollutants into the Bay, estimated to contribute 44% of the total nitrogen and phosphorus loads into the Bay. Municipal wastewater facilities (throughout the Bay watershed) are estimated to contribute 17% of the total nitrogen and 16% of the total phosphorus into the Bay.

Because our publicly owned wastewater facilities in Berkeley County are not currently designed or required to remove nitrogen and phosphorus from the waste stream, significant capital investment in new treatment processes will be required. In addition, increased operations and maintenance expenditures will be necessary to operate and dispose of by-products generated by the new processes. The required investments for nutrient controls will raise sewer rates for customers in Berkeley County an estimated 40% to over $66 per month for the average residential user. Rates for commercial and industrial users would likewise increase 40% over current rates. The costs of the nutrient removal processes will also likely result in a deferral or cancellation of other critical infrastructure extensions and/or improvements.

The nitrogen, phosphorus and sediment discharge allocations are estimated by algorithmic modeling conducted by an EPA contractor. No direct scientific evidence proves that West Virginia point source discharges impact the Bay or that the assigned allocations will be effective in restoring and protecting the Bay. We believe sound science is needed before wasting millions of dollars in public monies on an inadequate or inappropriate solution to the problem.

Berkeley County must not only reduce current levels of discharge, but must also account for and limit new and increased flows. Additional discharge resulting from development may be allowed only with corresponding nitrogen and/or phosphorus reductions elsewhere to achieve a "net zero" pollution rate. This will severely limit future economic growth opportunities for Berkeley County and effect land use restrictions. The "net zero" pollution rate will decrease development opportunities and act as a disincentive for business growth, both commercial and agricultural, in Berkeley County, if not the shrinking of industrial and agricultural activity in the Eastern Panhandle as a whole. This means lost job opportunities and lost revenue for Berkeley County as well as West Virginia.

The EPA rejection of West Virginia's submitted draft watershed implementation plan is unacceptable. As a result, EPA has imposed stricter limits upon the regulated wastewater treatment plants. The imposed limits correspond to EPA's maximum theoretical load reduction, or "E3" scenario: assuming the best case and that all available control technologies are deployed and represented at the highest technologically achievable levels of treatment, regardless of costs. This scenario would lead to more onerous rates for wastewater customers and leave even less opportunity for future growth in Berkeley County. These backstop limits must be removed.
In summary, Berkeley County is prepared to do its "fair share" of nutrient reduction in order to improve local water quality and the Bay; however, the "fair share" needs to be grounded in sound science with an approach that will not unduly burden citizens and will allow Berkeley County to recognize its growth potential in the future. Thank you for your consideration of our comments.